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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

01-033

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on September 7, 2005

Signature

Typed or printed name Veronika S. Leliever

Application Number

09/973,581

Filed

October 9, 2001

First Named Inventor

Jay S. Walker

Art Unit

2,645

Examiner

Olisa Anwah

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record. 54,096

Registration number

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

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September 7, 2005

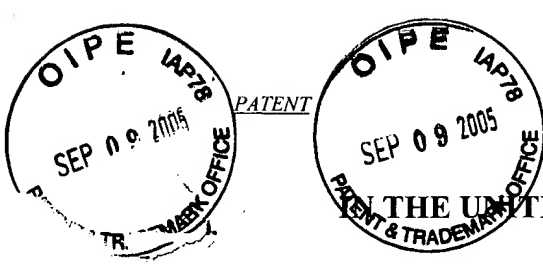
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒*Total of 1 forms are submitted.

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Application Serial No. 09/973,581
Attorney Docket No. 01-033

THE UNITED STATES PATENT AND TRADEMARK OFFICE

CUSTOMER NO. 22927

Applicants: Walker et al.
Application No.: 09/973,581
Filed: October 9, 2001
Title: METHOD AND APPARATUS FOR ENTERTAINING
CALLERS IN A QUEUE

Attorney Docket No.: 01-033

Group Art Unit: 2645
Examiner: Anwah, Olisa

**PRE-APPEAL BRIEF REQUEST FOR REVIEW
of the rejections in the Final Office Action mailed June 7, 2005**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner:

Applicants respectfully request Pre-Appeal Brief Review of the rejections set forth in the Final Office Action mailed June 7, 2005. No amendments are being filed with this request and this request is being filed with a Notice of Appeal. Review is requested for the reasons set forth in the remarks beginning on the following page.

REMARKS**I. Introduction**

Claims 1-22 are currently pending in the present application. Claims 1, 2, and 17 are independent. All pending claims stand rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over U.S. Patent No. 6,614,783 (hereinafter "Sonesh") in view of U.S. Patent Application No. 2005/0074108 (hereinafter "Dezonno"). Applicants respectfully traverse this ground for rejection as follows.

II. Claim Rejections under §103(a) – Sonesh in view of Dezonno

All independent claims are directed to receiving a call from a caller (*e.g.*, at a Interactive Voice Response Unit (IVRU) operated by a call center). All independent claims are further generally directed to *establishing a connection that enables the caller to make a purchase from a merchant while the call remains in the queue*. In other words, a caller may purchase items while the caller is "on-hold".

Neither of the cited references teaches nor suggests such a limitation. Sonesh, for example, describes various call routing techniques to promote "effective, transparent spreading of agents over different geographical locations." Sonesh, Col. 4, lines 3-4. In other words, Sonesh utilizes call routing and switching to load-balance incoming calls between calls centers and agents thereof.

While Sonesh does describe allowing "on-hold" callers to chat with one another or browse Internet pages during the "on-hold" period, Sonesh does not describe initiating a connection while the caller is "on-hold" so that the caller may make purchases during the "on-hold" period (*i.e.*, while the call remains in the queue to be answered). Sonesh simply does not, for example, describe any manner of allowing a caller to purchase items while "on-hold".

Dezonno fails to make up for the deficiencies of Sonesh. Dezonno, for example, is directed to Internet sales to customers that do not feel secure inputting their credit card information on-line. See, Dezonno, Abstract; [0007]-[0008]. Such customers are presented with a "call me now" button that they may press to have an agent call the

customer to finish a transaction over the phone (e.g., since it is supposedly more secure). Thus, while Dezonno does initiate a new or second connection between the merchant and the customer, such a connection is not provided in the context of an “on-hold” option.

Accordingly, neither reference, either alone or in combination teaches or suggests *establishing a connection that enables the caller to make a purchase from a merchant while the call remains in the queue.*

Further, neither reference teaches or suggests the limitation of independent claim 1 wherein the *connection is established with a second merchant*. Neither reference, for example, even contemplates a second merchant. Sonesh simply routes calls to various call centers presumably associated with a single entity, and Dezonno simply allows Internet-wary consumers to consummate a transaction with a single merchant via telephone.

Accordingly, neither reference, either alone or in combination teaches or suggests *establishing a connection with a second merchant that enables the caller to make a purchase from the second merchant while the call remains in the queue of the first merchant.*

Further yet, even if the cited references taught or suggested each limitation of the pending claims (which Applicants maintain they do not), the Examiner has failed to establish a *prima facie* case of obviousness. The specific teaching of Dezonno that the Examiner relies upon to support the combination of Sonesh and Dezonno, for example, would not have led one skilled in the art at the time of invention to make Examiner’s suggested combination.

The alleged motivation (as cited by the Examiner at pg. 3, line 9; pg. 4, line 5; pg. 5, last line) is presented in paragraph [0007] of Dezonno. This paragraph states that because the Internet lacks security, reliability, and accountability, consumers are compelled to make purchases using the telephone. Applicants do not comprehend how a method of finalizing an Internet-initiated sale via a telephone (e.g., Dezonno) to avoid security problems online could have possibly motivated one to modify a non-transaction oriented system (e.g., Sonesh) to provide “on-hold” purchasing capability. Indeed, since Dezonno is directed to modifying Internet sales to avoid fraud, there appears to be no

reason why one would have looked to Dezonno to modify Sonesh, since Sonesh is inherently not subject to such fraud (e.g., since no sales are contemplated by Sonesh).

Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness at least because the Examiner has not pointed to any specific motivation that would have led one skilled in the art to make the proposed combination of Sonesh and Denozzo.

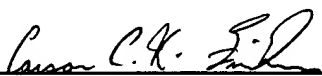
III. Conclusion

At least for the foregoing reasons, it is submitted that all claims are clearly in condition for allowance and Pre-Appeal Brief Review is requested to avoid the unnecessary expense of preparing an Appeal Brief in relation to the current rejections.

If there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Carson C.K. Fincham at telephone number 203-461-7017 or via e-mail at cfincham@walkerdigital.com, at the Examiner's convenience.

Respectfully submitted,

September 7, 2005
Date



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